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Meeting of the Parties to the Protocol on
Water and Health to the Convention on
the Protection and Use of Transboundary
Watercourses and International Lakes

Compliance Committee**Seventh meeting**

Geneva, 3 November 2011

Report of the seventh meeting of the Compliance Committee

1. The seventh meeting of the Compliance Committee under the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) was held on 3 November 2011 in Geneva. The following members of the Committee attended: Ms. Diana Iskrevva-Idigo (Bulgaria), Mr. Veit Koester (Denmark), Mr. Pierre Chantrel (France), Ms. Zsuzsanna Kocsis-Kupper (Hungary), Ms. Iлона Drulite (Lithuania), Mr. Truls Krogh (Norway), Ms. Magdalena Bar (Poland) and Mr. Serhiy Vykhryst (Ukraine). The following observers attended: Mr. Yves Lador (EarthJustice), Ms. Maria-Laura Kovina-Kerpelman (International Council of Environmental Law), Mr. Alexander Mindorashvili (Georgia) and Mr. Eibe Riedel (member of the United Nations Committee on Economic, Social and Cultural Rights). The meeting was chaired by Mr. Koester and serviced by the United Nations Economic Commission for Europe (ECE) secretariat.

I. Adoption of the agenda

2. The Compliance Committee adopted its agenda as set out in document ECE/MP.WH/C.1/2011/3-**EUR**/DHP1003944/4.2/2011/3.

II. Relevant developments since the previous meeting of the Compliance Committee

3. The secretariat briefed the Committee about the main outcomes of the ninth meeting of the Legal Board under the Water Convention (Geneva, 1-2 September 2011), which was negotiating a new mechanism to facilitate implementation and compliance with the

Convention. The current negotiation text included an advisory procedure, similar to the consultation process established under the Protocol. Thus possible future consultations with the Compliance Committee could be a useful inspiration for the work under the Water Convention. The negotiations were expected to be finalized so that a draft mechanism to facilitate implementation and compliance could be submitted for adoption at the Meeting of the Parties to the Water Convention in November 2012.

4. The secretariat also provided information on the workshop on “Equitable access to water and sanitation: challenges, good practices and lessons learned” (Geneva, 4–5 July 2011), organized under the leadership of the Government of France and in cooperation with the United Nations Human Rights Council’s Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Ms Catarina de Albuquerque. The workshop had attracted attention to the Protocol and its provisions promoting equity, as well as its compliance procedure. The workshop also discussed and provided input to a draft guidance document, “No one left behind: Good practices to ensure equitable access to water and sanitation”, which was close to finalization and would be launched at the World Water Forum in March 2012.

5. Moreover, the secretariat noted the continuing progress in the implementation of the Protocol, both by Parties and non-Parties, as had been demonstrated at a recent meeting of the Task Force on Target Setting and Reporting (Tbilisi, 19–20 October 2011). Implementation of the Protocol’s core target-setting provisions had been supported by activities under the auspices of the Project Facilitation Mechanism and the National Policy Dialogues under the European Union Water Initiative implemented by ECE.

III. Consultations with Parties to facilitate implementation of the Protocol

6. The Chair noted that the Compliance Committee was holding its seventh meeting back to back with the fourth meeting of the Working Group on Water and Health (Geneva, 1–2 November 2011), where he had presented the new consultation process to Parties, stressing that making use of the process in no way implied any recognition of non-compliance, and was not linked to the initiation of a compliance procedure.

7. In parallel with the Working Group meeting, representatives of Parties had been given an opportunity to have informal meetings with members of the Committee to ask questions about the new consultation process; however, no representatives of Parties had approached the Committee during the time set aside.

8. At its meeting, the Committee considered whether it could take additional proactive steps to encourage Parties to take advantage of the consultation process. It was agreed that the Chair, in consultation with Committee members, would write a letter to all Parties informing them about the consultation process and inviting expressions of interest. The letter would be circulated by the secretariat to the Protocol focal points in the ministries of health and environment who had been engaged in the preparation of national implementation reports.

9. The Committee decided that future meetings should again be organized back to back with the Working Group on Water and Health in order to provide Parties with the possibility to interact with Committee members and seek information on the consultation process. A separate one- or two-day meeting could be organized in April 2012, provided that there were expressions of interest by Parties in receiving additional information on the consultation process by the end of January 2012.

10. A representative of a non-governmental organization (NGO) had approached the Committee during the time set aside for informal meetings, requesting information on the openness of the consultation process for NGOs. Committee members had clarified that, while the initiation of the process itself was a prerogative of Parties only, NGOs could participate in meetings held in the context of the consultation process, unless the Parties concerned request that such meetings be held in closed session, for reasons of confidentiality.

11. The Committee discussed the need to amend the terms of reference of the consultation process (ECE/MP.WH/C.1/2011/2–EUR/DHP1003944/4.2/2011/2, annex). It agreed that paragraph 5 was adequately clear in that the consultation process could be initiated by Parties only. The Chair suggested amending paragraph 8 to clarify that observers could take part in the process provided that meetings were open. The Committee decided that it would be preferable to collect a list of amendments and to issue a revised version of the terms of reference at a later stage. In the meantime, it was agreed that the text describing the terms of reference of the consultation process on the ECE website could be revised to clearly describe the role of Parties and observers.

12. The Compliance Committee also discussed how to involve NGOs in the work under the Protocol and in the Compliance Committee, the training needs of NGOs and possible synergies with the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), as well as the Aarhus Convention's Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs). The secretariat highlighted the development of a guidance document on public participation in the implementation of the Protocol on Water and Health, and in particular in setting targets and target dates that would be developed in 2012, in cooperation with the Task Force on Public Participation under the Aarhus Convention.

13. A representative of EarthJustice underlined that the consultation process opened a new avenue for Parties to improve their compliance with the Protocol on Water and Health. He encouraged NGOs throughout the region to work at the national level to stimulate their Governments to make use of the consultation process.

IV. Cooperation with the Office of the High Commissioner for Human Rights

14. The Committee recalled its recognition of the close relationship between the Protocol on Water and Health and the human right to water and sanitation, emphasizing the role of the Protocol as a concrete and effective tool for its implementation. The secretariat recalled the previous exchange between ECE and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to seek possibilities for cooperation (see ECE/MP.WH/C.1/2011/2–EUR/DHP1003944/4.2/2011/2).

15. Trying to develop synergies with the work carried out under the mandate of the Special Rapporteur merited further consideration, in particular in relation to the work carried by the Special Rapporteur in ECE countries. Among suggested areas of cooperation was the exchange of information with the Special Rapporteur before her missions to ECE countries to make her aware of the opportunities and support provided under the Protocol, including the consultation process, so that she could suggest them to countries she visited as a means to further the implementation of the human right to water and sanitation. From its side, the Compliance Committee could promote more forcefully awareness of the human rights obligations of Parties with regard to safe drinking water and sanitation.

16. Cooperation with the relevant human rights treaty bodies was also discussed. It was considered that the participation of the Chair of the Compliance Committee in the regular meetings of the Chairs of the seven human rights treaty bodies would be an effective means to foster mutual awareness and cooperation. It was suggested that the Chairs of the Aarhus Convention, the Protocol on Water and Health and the Protocol on PRTRs could be invited to participate in that annual meeting, in order to promote information exchange and awareness of the compliance provisions of the different Conventions and Protocols and to consider possibilities for cooperation.

17. Mr. Riedel, a member of the United Nations Committee on Economic, Social and Cultural Rights, illustrated the procedure for review of compliance by his Committee, a subsidiary of the Economic and Social Council that monitored the implementation of the International Covenant on Economic, Social and Cultural Rights, including the right to safe drinking water and sanitation. The Committee's review was based on the reporting obligations under articles 16 and 17 of the Covenant, which required States Parties to submit periodic reports to the Committee within two years after the entry into force of the Covenant and thereafter every five years.

18. Mr. Riedel said options for cooperation included participation by members of the Compliance Committee in meetings of the Committee on Economic, Social and Cultural Rights, as well as more informal opportunities for cooperation, by providing relevant information linked to the implementation of the Protocol related to countries reviewed and which could then be used to develop the Committee's concluding observations, containing suggestions and recommendations. In 2011 and 2012, among others, the Committee on Economic, Social and Cultural Rights would be reviewing the reports of Azerbaijan and Turkmenistan.

19. To open the possibility for individual complaints, in December 2008 the General Assembly had unanimously adopted an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (resolution 63/117), which provided the Committee with the competence to receive and consider communications, Mr. Riedel noted. The Optional Protocol had been opened for signature in 2009, but was not yet in force.

20. In the ensuing discussion, it was pointed out that cooperation with the Committee on the Rights of the Child was also relevant for the Compliance Committee. The Universal Periodic Review was also discussed, and it was recalled that recommendations from other United Nations bodies concerning a human rights issue were taken up in that process. For example, the decision by the Meeting of the Parties of the Aarhus Convention with regard to Turkmenistan's compliance was likely to be reflected in the next Universal Periodic Review cycle.

21. The Committee thanked Mr. Eibel for his informative brief and reconfirmed its interest in further exploring cooperation with the human rights treaty bodies and the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation. To that end, the Chair proposed writing a letter to the Special Rapporteur Ms. de Albuquerque, to suggest a meeting in Geneva in early 2012 and to follow up in person on some of the issues raised.

22. The Committee agreed to further explore the highlighted avenues to strengthen cooperation with the Committee on Economic, Social and Cultural Rights, in particular when Parties or signatories to the Protocol were subject to review.

V. Awareness-raising on the compliance procedure

23. Members of the Compliance Committee exchanged information on their respective activities to foster awareness of the Protocol and its compliance procedure. Activities included the publication of articles on the compliance procedure, brochures developed by NGOs under international projects, presentations in national and international events, and the distribution of the existing brochure on the compliance procedure.

24. The secretariat drew attention to a side event on the Protocol on Water and Health organized at the Seventh “Environment for Europe” Ministerial Conference (Astana, 21–23 September 2011), and highlighted the reference to the Protocol contained in the outcome document of that Conference, the Astana Ministerial Declaration. It also informed participants of its meeting with the Aarhus Centre during a recent mission to Georgia. Members of the Compliance Committee were encouraged to establish linkages with their national Aarhus Centres to make use of them as multipliers to disseminate information about the Protocol, its public participation provisions and compliance procedure. The sixth World Water Forum in March 2012 would provide the next opportunity to promote the Protocol as a solution to addressing water and health-related issues throughout the region.

VI. Programme of work and calendar of future meetings

25. The Committee decided that future meetings should be organized again back to back with the Working Group on Water and Health, to provide Parties with the possibility to interact with Committee members and seek information on the consultation process. A one-day meeting, back to back with the sixth session of the Working Group on Water and Health, could be organized on Friday, 12 October 2012. Should a two-day meeting be necessary, 8 and 9 October 2012 could be provisionally reserved, in advance of the meeting of the Working Group.

26. A separate one- or two-day meeting could be held on 24 and/or 25 April 2012, provided that there were expressions of interest by Parties in receiving additional information on the consultation process by the end of January 2012.

27. As for future work, the Committee discussed the need for and opportunity to analyse further the low implementation of the Protocol, including the underlying problems, from a legal, administrative, financial, and scientific perspective. It discussed whether such an analysis should be conducted by a consultant or by the Committee members themselves, whether a workshop could be organized as a part of the process and whether the Working Group on Water and Health could be involved. The Committee could not agree on the objectives and modalities of such an analysis and agreed to take up the issue again at its next meeting. It requested the secretariat to prepare an overview of the available sources of information on the implementation of the Protocol on Water and Health which might be suitable for the further consideration of such an undertaking. The Chair also agreed to take up the issue with the Protocol’s Bureau.